



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

OCT 29 2019

REPLY TO THE ATTENTION OF

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Russell A. Rasmussen 
Senior Advisor for Water

TO: Cathy Stepp
Regional Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and the Region's ethics team and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Because I am still considered an employee of the State of Wisconsin through November 19, 2019, while the State pays out my accrued leave and benefits, the financial interests of Wisconsin are imputed to me pursuant to 18 U.S.C. § 208(a). However, on June 4, 2019, the Agency's Designated Agency Ethics Official issued me a time-limited waiver pursuant to 18 U.S.C. § 208(b)(1). I understand that this waiver allows me to participate in particular matters that involve Wisconsin, but not on the same specific party matters on which I personally and substantially worked while with the State. I also understand I may not participate in any particular matter that would have a direct and predictable effect on my employment, salary, or other benefits from Wisconsin. I have consulted with OGC/Ethics and been advised that this

waiver ceases to be effective when my employment with Wisconsin terminates; however, I understand that my impartiality determination and related recusals remain in force.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I have ethics obligations with respect to my former employer, the Wisconsin Department of Natural Resources (WDNR). The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer do not apply to me. The definition of “former employer” in the Executive Order excludes state government.¹ Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with my former employer, which is a state government. However, on June 11, 2019, EPA’s Alternate Designated Agency Ethics Official issued an impartiality determination that authorizes me to participate in specific party matters that involve the State of Wisconsin, but not on the very same specific party matters I worked on personally and substantially while employed with the WDNR. Given my role at WDNR, I am recusing myself from matters involving combined animal feeding lot permits and enforcement actions in Keweenaw County. If any other specific party matters arise at EPA, in which I previously participated personally and substantially while at WDNR, I understand that I must recuse myself from participating in those particular matters.

SCREENING ARRANGEMENT

To ensure that I do not participate in matters from which I am recused, I will request the Regional Administrator’s Chief of Staff (CoS), Region 5, and Water Division Director assist in screening EPA matters directed to my attention. To help ensure that I do not inadvertently participate in matters from which I am recused, I am requesting the CoS and Water Division Director seek the assistance of the Region 5 Ethics Team and/or OGC/Ethics if they are ever uncertain whether I may participate in a matter.

If the CoS or Water Division Director determine, with input from Region 5 Ethics and/or OGC/Ethics as appropriate, that I am recused from a particular matter, they will take action or assign it to another, without my knowledge or involvement. I will provide a copy of this memorandum to Justina Fugh, Director, Ethics Office, and Ann Coyle, Regional Ethics Attorney.

UPDATE AS NECESSARY

In consultation with OGC/Ethics or the Region’s ethics team, I will revise and update my

¹ See Exec. Order 13770, Section 2(j), which provides: “‘former employer’ does not include ... State or local government.”

recusal statement whenever warranted by changed circumstances, including a determination that I worked personally and substantially on a particular matter, not yet identified, while at WDNR, changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my screening arrangement, I will provide a copy of the revised recusal statement to you, OGC/Ethics, and the regional ethics attorney.

cc: Justina Fugh, Director, Ethics Office
Cheryl Newton, Deputy Regional Administrator
Kurt Thiede, Chief of Staff
Tom Short, Acting Director, Water Division
Leverett Nelson, Regional Counsel
Ann Coyle, Regional Ethics Attorney